

**To:** CN=Jennifer Wu/OU=R10/O=USEPA/C=US@EPA;CN=David Powers/OU=R10/O=USEPA/C=US@EPA;CN=Linda Liu/OU=R10/O=USEPA/C=US@EPA[]; N=David Powers/OU=R10/O=USEPA/C=US@EPA;CN=Linda Liu/OU=R10/O=USEPA/C=US@EPA[]; N=Linda Liu/OU=R10/O=USEPA/C=US@EPA[]

**Cc:** CN=Alan Henning/OU=R10/O=USEPA/C=US@EPA;CN=Helen Rueda/OU=R10/O=USEPA/C=US@EPA;CN=Jayne Carlin/OU=R10/O=USEPA/C=US@EPA;CN=Mark Dyner/OU=DC/O=USEPA/C=US@EPA;CN=Steve Sweeney/OU=DC/O=USEPA/C=US@EPA;CN=Lynda Hall/OU=DC/O=USEPA/C=US@EPA[]; N=Helen Rueda/OU=R10/O=USEPA/C=US@EPA;CN=Jayne Carlin/OU=R10/O=USEPA/C=US@EPA;CN=Mark Dyner/OU=DC/O=USEPA/C=US@EPA;CN=Steve Sweeney/OU=DC/O=USEPA/C=US@EPA;CN=Lynda Hall/OU=DC/O=USEPA/C=US@EPA[]; N=Jayne Carlin/OU=R10/O=USEPA/C=US@EPA;CN=Mark Dyner/OU=DC/O=USEPA/C=US@EPA;CN=Steve Sweeney/OU=DC/O=USEPA/C=US@EPA;CN=Lynda Hall/OU=DC/O=USEPA/C=US@EPA[]; N=Mark Dyner/OU=DC/O=USEPA/C=US@EPA;CN=Steve Sweeney/OU=DC/O=USEPA/C=US@EPA;CN=Lynda Hall/OU=DC/O=USEPA/C=US@EPA[]; N=Steve Sweeney/OU=DC/O=USEPA/C=US@EPA;CN=Lynda Hall/OU=DC/O=USEPA/C=US@EPA[]; N=Lynda Hall/OU=DC/O=USEPA/C=US@EPA[]

**Bcc:** []

**From:** CN=Don Waye/OU=DC/O=USEPA/C=US

**Sent:** Fri 9/7/2012 2:12:15 PM

**Subject:** Oregon CZARA lawsuit, pesticides rulemaking petition & EPA public comments  
[http://www.deq.state.or.us/news/publicnotices/uploaded/120828\\_22\\_PublicNotice.pdf](http://www.deq.state.or.us/news/publicnotices/uploaded/120828_22_PublicNotice.pdf)  
<http://www.epa.gov/r10earth/tmdl.htm>  
[www.NorthwestEnvironmentalAdvocates.org](http://www.NorthwestEnvironmentalAdvocates.org)  
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## Ex. 5 - Attorney Client

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**To:** David Powers/R10/USEPA/US@EPA  
**Cc:** Linda Liu/R10/USEPA/US@EPA, Alan Henning/R10/USEPA/US@EPA, Don Waye/DC/USEPA/US@EPA, Helen Rueda/R10/USEPA/US@EPA, Jayne Carlin/R10/USEPA/US@EPA, Karma Anderson/R10/USEPA/US@EPA, Marylou Soscia/R10/USEPA/US@EPA, Matthew Szelag/R10/USEPA/US@EPA, [Palmer.John@epa.gov](mailto:Palmer.John@epa.gov), [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov)  
**Date:** 09/06/2012 05:42 PM  
**Subject:** Re: Fw: Oregon CZARA -- pesticides

Thanks Dave. Linda et al, if you plan to send comments to ODEQ, please let me know. Otherwise, I'll help to set up a call as people's schedules allow to see what our next coordinated steps might be between pesticides work and Oregon CZARA. Jayne is the Oregon CZARA Coordinator, but I'll be helping out on this issue.

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 To: Jennifer Wu/R10/USEPA/US@EPA, Chad Schulze/R10/USEPA/US@EPA, Jayne Carlin/R10/USEPA/US@EPA, Karma Anderson/R10/USEPA/US@EPA, Palmer.John@epa.gov, Alan Henning/R10/USEPA/US@EPA, Marylou Soscia/R10/USEPA/US@EPA, Helen Rueda/R10/USEPA/US@EPA, Don Wayne/DC/USEPA/US@EPA, Matthew Szelag/R10/USEPA/US@EPA  
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 Date: 08/30/2012 11:53 AM  
 Subject: Re: Fw: Oregon CZARA -- pesticides

OR EQC/DEQ action on a petition to initiate rulemaking to adopt pesticide use regulations into OR's WQS rules could have implications for a number of efforts that EPA is involved in: OR CZARA/CNPSP approval, toxics reduction efforts, Triangle Lake herbicide exposure issues, ESA consultation on pesticide label requirements, 303(d) listings and IR TMDLs, Agricultural Certainty efforts, meeting Tribal Trust responsibilities, and WQS development/approval issues.

DEQ is asking for public comment on a petition to initiate rulemaking submitted by Northwest Environmental Advocates (see [http link below](#)). DEQ will hold a public hearing in Portland on Sept. 12, 2012. Comments are due by 6 p.m., Sept. 18, 2012. The EQC could: 1) direct DEQ to initiate rulemaking, 2) deny the petition, or 3) direct DEQ to take other actions.

The petition is focused on the WQS arena which Angela and Matthew work in...but the genesis of the petition (OR CZARA/Pesticide Consultations) and its implications to efforts we are all working on make this a broader opportunity.

Given the tight timeline for providing input to DEQ and the number of R10 folks who might have an interest I recommend that someone in the Seattle Office take the lead on setting up a discussion with interested staff to facilitate determining whether and how EPA provides input to DEQ.

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Jennifer Wu---08/29/2012 09:02:41 AM---Hi Dave - I also wanted to let you all know that DEQ's public comment period on NWEA's petition open

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 To: David Powers/R10/USEPA/US@EPA  
 Cc: Chad Schulze/R10/USEPA/US@EPA, Jayne Carlin/R10/USEPA/US@EPA, Karma Anderson/R10/USEPA/US@EPA, Palmer.John@epa.gov  
 Date: 08/29/2012 09:02 AM  
 Subject: Re: Fw: Oregon CZARA -- pesticides

Hi Dave -

I also wanted to let you all know that DEQ's public comment period on NWEA's petition opened yesterday and closes on September 18. There's also a public hearing on September 12 in Portland.

[http://www.deq.state.or.us/news/publicnotices/uploaded/120828\\_22\\_PublicNotice.pdf](http://www.deq.state.or.us/news/publicnotices/uploaded/120828_22_PublicNotice.pdf)

I'm not sure if we want to comment or what the follow-up actions will be as far as how NWEA's petition affects CZARA. Let me know if you need any help organizing a meeting.

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<http://www.epa.gov/r10earth/tmdl.htm>

David Powers---08/28/2012 11:55:38 AM---Chad - I recently sent you an August 20, 2012 letter from NWEA to EPA and NOAA regarding EPA/NOAA fi

From: David Powers/R10/USEPA/US  
To: Chad Schulze/R10/USEPA/US@EPA, Palmer.John@epa.gov  
Cc: Jayne Carlin/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Karma Anderson/R10/USEPA/US@EPA  
Date: 08/28/2012 11:55 AM  
Subject: Fw: Oregon CZARA -- pesticides

Chad - I recently sent you an August 20, 2012 letter from NWEA to EPA and NOAA regarding EPA/NOAA findings on OR's management measures for pesticide use on ag and forest lands. That letter is attached below along with related state rule change petition documents. Now you have it too John.

The August 20th letter claims that the EPA/NOAA Coastal Resource Program 2004 interim sign off on OR's coastal nonpoint source pollution control plan (CNPCP) management measures for pesticide use relied on a court-ordered injunction stemming from the WA Toxics Coalition v. EPA Court decision. NWEA further claims that since that injunction has terminated for a number of pesticides, and will likely be completely terminated by June 30, 2013, an EPA proposed final decision relying on the injunction would be arbitrary and capricious.

It was my understanding that the injunction would be in place until Section 7 consultation on several dozen pesticides had been completed. I also understand the EPA HQ was the lead on the Section 7 consultation effort. Do either of you know:

- 1) the current status of those pesticide consultations and whether consultations are on track to be completed by June 2013
- 2) whether the pesticide label/use requirements have changed as a result of consultations
- 3) whether recommended measures (RPAs) from the Services were adopted as label/use requirements
- 4) whether lifting of the injunction was predicated on completion of Section 7

EPA and NOAA's Coastal Resources Program need to make findings on whether we can approve OR's and WA's CNPCPs. Management measures for pesticide use on ag and forest lands have been an issue. The state rule change petition process represents an opportunity to promote additional pesticide management measures (or reconfirm measures that are part of label requirements) so I would appreciate your insights on the above questions.

thanks, Dave

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----- Forwarded by David Powers/R10/USEPA/US on 08/28/2012 10:37 AM -----

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Date: 08/20/2012 02:10 PM  
Subject: Oregon CZARA -- pesticides

Please find a short letter attached.

Nina

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[attachment "CZARA Letter to Federal Agencies re pesticide petition.pdf" deleted by Jennifer Wu/R10/USEPA/US] [attachment "Pesticide Petition FINAL.pdf" deleted by Jennifer Wu/R10/USEPA/US] [attachment "Table of Contents FINAL.pdf" deleted by Jennifer Wu/R10/USEPA/US]